

ORIGINAL

IN THE DISTRICT COURT 1-6 W
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

M. ASH-SHARIEF AL'ASKARI,
PLAINTIFF

V.

CIVIL NO.1:00-CV-1449)
(CALDWELL, J)(SMYSER, M.,J.)

KATHLEEN HAWKES,
DOUGLAS GOLDRING,
VIVIAN HURSH,
ROBERT ZIMANY,

DEFENDANTS

FILED
HARRISBURG, PA

SEP 29 2003

**PLAINTIFF'S MOTION FOR AND BRIEF IN SUPPORT OF
REQUESTS LEAVE FOR ORAL DEPOSITION OF AN
INCARCERATED PERSON**

MARY E. D'ANDREA, CLERK
Per

Now comes the M. Ash'Sharief Al'Askari who says that he is the plaintiff in the above named action, that he is unable to afford adequate representation due to his indigency, and that at this time plaintiff seeks leave of the Honorable to take Deposition of an incarcerated person pursuant to the Federal Rules of Civil Procedures,

Which reads in pertinent parts:

- (a) When Depositions May Be Taken; When Leave Required.
(1) A party may take the testimony of any person, including a party, by deposition upon oral examination without leave of court except as provided in paragraph (2). The attendance of witnesses may be compelled by subpoena as provided in Rule 45.
(2) A party must obtain leave of court, which shall be granted to the extent consistent with the principles stated in Rule 26(b)(2), if the person to be examined is *confined in prison* or if, without the written stipulation of the parties, . . .

The plaintiff has previously informed counsels for the defendants, all employees of the U.S. Bureau of Prisons, Allenwood Federal Prison Complex, of the plaintiff's intention to depose Irving Alvin, an incarcerated person at FCI Allenwood, and previously informing

Mr. Alvin himself via a mailed subpoena, a copy of which was sent to the defendants counsels to deliver to the incarcerated's warder. As a consequences, plaintiff requests that the Honorable to instruct counsels for the defendants herein to provide to the plaintiff an immediate confirmation of Mr. Irving Alvin present place of incarceration by the defendants for purpose of his deposition in a timely manner. The Date of which has been set for **2 October, 2003, 11:30 a.m., at the office of U.S. Attorney for the MDPA, U.S. Courthouse 228 Walnut St, Harrisburg, PA 17108.** All deponents have been duly Notified (see attached Notice). At that time, the plaintiff intends to depose not only the party(s) but also the witness(es) in this matter sub judice all on *one* date, at *one* time and *one* locale. The depositions will be recorded electronically.

BRIEF IN SUPPORT OF MOTION

The plaintiff is required to depose an incarcerated person, Irving Alvin, inasmuch as Mr. Alvin's testimony is central and crucial to the plaintiff's claims, without his testimony a trial would be of merely the plaintiff's *word* against a federal lawyer's *word*. It cannot worked out like that.

The plaintiff argues that the defendants *stated* pretext for seizing and destroying the plaintiff's legal property was that the plaintiff had "legal material belonging to inmate Alvin". Mr. Alvin would testify that he never related to the defendants that he gave his legal property to the plaintiff and that the plaintiff never at any time had his legal property. Without this evidence brought out, it is merely my uncorroborated testimony against Goldring's uncorroborated testimony regarding Mr. Alvin. If there was no Inmate Alvin, there would not have been a seize and destroy, and we *all* would not be here

today.

Further, by reason of this matter sub judice the defendants has absolute discretion to remove Mr.Alvin from the jurisdiction as to make him completely unavailable at any time later.

Wherefore, this motion should be granted

CERTIFICATE OF SERVICE

The plaintiff does hereby certify that a copy of the foregoing Motion for and Brief in Support of Leave To Depose was fax to the counsels for the defendants whose address is:

U.S.ATTORNEYS' OFFICE
SUITE 316; Federal Building,
240 W.3rd St
Williamsport, PA 17703-054
FAX(570)326 7916



Date: Wednesday, September 24, 2003

M.Ash' Sharief Al' Askari
Pro se
5737 N.12th St
Phila.,PA 19141

To: Mr. IRVING ALVIN
REG.NO.47890-066
FCI ALLENWOOD
POBOX 2000
WHITE DEER, PA 17887

Attached

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

M. ASH-SHARIEF AL'ASKARI,

PLAINTIFF,

V.

CIVIL NO.1449(CALDWELL)
(SMYSER, M.J.)

KATHLEEN HAWKES ET AL.,

DEFENDANTS

NOTICE OF DEPOSITION

To: Robert Goldring,
Robin Greggs
Viola Hursh

C/o Joseph McClusky, Attorney/Advisor,
Allenwood Complex
POB2500
White Deer, PA 17887

NOTICE is hereby given to Robert Goldring, Robin Greggs and Viola Hursh pursuant to Federal Rules of Civil Procedure, your oral depositions will be taken before a officer of the court as authorized by law to administer oaths, on Thursday, 2 October, at 11:30 at the office of the U.S. Attorney for the MDPA, U.S.Courthouse, 228 Walnut St, Harrisburg, PA 17108.

Further, pursuant to Federal R. Civ. P. 30(b) (5),(6) you all are requested to produce for inspection and copying at your depositions the following documents:

R.GOLDRING: You are particularly requested to produce for inspection and copying at your deposition all documents created, authorized or signed by you related in part or whole to any action involving you and the plaintiff, directly or in directly, at FCI Allenwood during the period of 1999.Further, you are requested To produce for inspection and copying at your deposition all institution policy statements relevant to "donating of property", all records

of the plaintiff's alleged "donation" of his property to the BOP.


- R.GREGGS: You are particularly requested to produce for inspection and copying at your deposition all and any of the plaintiff's re-requests for any administrative remedial actions inclusively while at FCI Allenwood; further, produce for inspection and copying FCI Allenwood's Institution Policy Statements relating to 28 C.F.R.SUBSECT 542.10 ET SEQ., and all records of the UDC AND DHO proceedings involving Goldring, Hursh and the plaintiff during the period of 1999.
- V.HURSH: You are particularly requested to produce for inspection and Copying at your deposition the following Record Log Books of UNIT 3A (FCI ALLENWOOD), respectively, the Unit guard's Log book and the Unit counselor's log book for the dates of 4th And 5th of April, 1999.

Certificate of Service

I do hereby certify that I have FAX a copy of the foregoing Notice of Deposition upon the named deponents to their places of business:

BOP
ALLENWOOD COMPLEX
POBOX 2500
C/O JOSEPH McCLUSKY
ATTORNEY-ADVISOR, FCI ALLENWOOD
WHITE DEER, PA 17887
FAX (570)547 7751

Date: 24 September 2003


M. Ash-Sharief Al'Askari
5737 N.12 St
Phila., PA 19141

5737 N. 12 St
Pitt PA
19111

Clerk of Court
United States Courthouse,
228 Walnut St
Harrisburg PA 17108

M.D. PA,

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MARY E. DYANDREA, CLERK
Per

